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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.757 of 2004

Mr. Harun Azamkhan Dafedar ....Petitioner
V/s.

The Superintendent Engineer
MSEB, Sangli ....Respondents

Mr. K.S.Patil for the Petitioner
Mr. L.M.Acharya for the Respondents

CORAM : B.H.MARLAPALLE,J.
DATED : 29th November, 2007

P.C.

Heard Mr. Patil, the Learned Counsel for the Petitioner who had filed Comp(ULP)No. 88/1992 before the Industrial Court at Kolhapur alleging unfair labour practices under items 5, 9 and 10 of Schedule IV of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practice Act, 1971. As per the Complainant he was due to receive the pay scale of higher grade and he was denied the legitimate benefit which occurred from General Order No. 74.

2. It appears that during the pendency of the complaint, the Complainant was found fit and, therefore, was granted the said benefit w.e.f. 1-4-1992. The

Respondent Board had contended before the Industrial Court that the benefit flowing from General Order No. 74 was not automatic and it was subject to the service record of the claimant. It was further stated that for the year 1987, the Complainant's service record was found to be adverse and, therefore, his case was reviewed in the year 1992 and was granted the higher pay scale. Thus, the controversy that remained pending before the Industrial Court was restricted to the period from 1-1-1987 to 31-3-1992 so far as difference in pay is concerned.

3. The Industrial Court noted that a Division Bench of this Court in Maharashtra State Electricity Board v/s. Dinkar Sadashiv Sane reported in 1993 I CLR page 865 has held that the benefit flowing from the General Order no. 74 is not automatic and it cannot be claimed as a matter of right unless the service record of the claimant is found to be satisfactory during the relevant period. The Industrial Court, therefore, dismissed the complaint so far as the issue of arrears is concerned from 1-1-1987 to 31-3-1992.

4. Admittedly, the Petitioner is on the verge of retirement and his retirement benefits are normally decided on the basis of last drawn salary. The reasoning set out by the Industrial Court in denying the

benefit of arrears of pay for the period from 1-1-1987 to 31-3-1992 does not appear to be perverse or patently erroneous so as to call for interference under Article 227 of the Constitution.

5. The Petition is rejected summarily.

[B.H.MARLAPALLE,J.]